

By

*Bill Sarpalini*

S.B. No. 875

A BILL TO BE ENTITLED

AN ACT

relating to local authorization of permits for weather modification that includes hail suppression.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 18.0841, Water Code, as amended, is amended to read as follows:

Sec. 18.0841. ELECTION FOR APPROVAL OF A PERMIT THAT INCLUDES AUTHORIZATION FOR HAIL SUPPRESSION. (a) [in---this section-

[ (1) -- "Target--area"--means--that--area--described--by--metes and--bounds--or--other--specific--bounded--description--set--out--in--the application--for--a--permit-

[ (2) -- "Operational--area"--means--that--area--that--joins--the target--area--which--is--reasonably--necessary--to--use--in--order--to effectuate--the--purposes--over--the--target--area--without--affecting--the land--or--land--owners--in--the--operational--area;--but--in--no--event--to exceed--eight--miles--from--the--limits--of--the--target--area;---The operational--area--shall--be--described--by--metes--and--bounds--or--other specific--bounded--description--and--shall--be--set--out--in--the application--for--a--permit;--If--the--application--for--a--permit--does--not describe--the--operational--area;--the--commission--may--designate--an--area located--inside--and--up--to--eight--miles--from--the--outer--limits--of--the target--area--described--in--the--application--as--the--operational--area--of the--permit--for--the--purposes--of--this--chapter-

1           [~~(b)~~] No permit that provides for or authorizes the seeding  
2 of clouds for hail suppression may be issued by the commission  
3 before the end of the 30-day period immediately following the first  
4 publication of notice and then only in those counties [~~or parts--of~~  
5 ~~counties--in--the--target--area--or--operational-area~~] in which the  
6 majority of the qualified voters voting have approved or have not  
7 disapproved the issuance of a permit if an election has been held,  
8 or in any county [~~or part--of--a--county--in--the--target--area--or~~  
9 ~~operational-area~~] if no petition for an election has been filed.

10           [~~(c)~~--Persons--eligible--to-vote-in-elections-held-under-this  
11 section-shall-include-qualified-voters--in--counties--or--parts--of  
12 counties--included--in--the-target-area-or-operational-area--Where  
13 the-target-area-or-operational-area-includes-only-part-of-a-county,  
14 an-election-held-under--this--section--may--be--held--only--in--the  
15 election--precincts--which--are--included--entirely--within--or-are  
16 partially-included-in-said-areas--All--qualified--voters--in--such  
17 precincts-shall-be-entitled-to-vote-in-these-elections.]

18           (b) [~~(d)~~] On written request of at least 25 qualified voters  
19 residing in the county or counties [~~target-area-or-operational~~  
20 ~~area~~] mentioned in the notice requesting an election accompanied by  
21 unsigned petitions, the county clerk of each county [~~within--the~~  
22 ~~target--area--or--operational--area~~] shall certify and mark for  
23 identification petitions for circulation. An application for a  
24 petition seeking an election to disapprove the issuance of a permit  
25 shall be headed: "Application for Election to Disapprove a Weather  
26 Modification Permit." The application shall contain a statement  
27 just ahead of the signatures of the applicants stating the

1 following: "It is the hope, purpose, and intent of the applicants  
2 whose signatures appear on this application to see disapproved the  
3 issuance of a permit for weather modification including hail  
4 suppression." An application for a petition seeking an election to  
5 approve the issuance of a permit shall be headed: "Application for  
6 Election to Approve a Weather Modification Permit." The  
7 application shall contain a statement just ahead of the signatures  
8 of the applicants as follows: "It is the hope, purpose, and intent  
9 of the applicants whose signatures appear on this petition to see  
10 approved the issuance of a permit for weather modification  
11 including hail suppression." Upon the return to the county clerks  
12 of such petitions signed by at least 10 percent of the qualified  
13 voters residing in each county [~~within--the--target--area--or~~  
14 ~~operational--area~~] in the notice requesting an election the  
15 commissioners court of each county shall call and hold an election.  
16 Notice under Chapter 549, Acts of the 60th Legislature, Regular  
17 Session, 1967 (Article 29e, Vernon's Texas Civil Statutes), of the  
18 commissioners court meeting to call and hold the election is not  
19 required. The date of the election shall be determined by the  
20 commissioners court in accordance with this section notwithstanding  
21 Section 9b, Texas Election Code, as amended (Article 2.01b,  
22 Vernon's Texas Election Code). The petition must be filed with the  
23 clerk of each county within 30 days immediately following the first  
24 publication of notice. The election shall be held within 45 days  
25 after the petition is received to determine whether or not the  
26 qualified voters in each county [~~the--target--area--or--operational~~  
27 ~~area~~] approve the issuance of the permit. Immediately on calling

1 the election, the clerk of each county [~~within-the-target-area-or~~  
2 ~~operational-area~~] shall notify the executive director of the date  
3 of the election. Except as otherwise provided in this chapter,  
4 elections shall be held in accordance with the Texas Election Code.

5 (c) [~~e~~] The petition for the election shall read  
6 substantially as follows: "The following qualified voters of  
7 \_\_\_\_\_ County request the Commissioners Court of \_\_\_\_\_  
8 County to call an election at which the qualified voters shall be  
9 asked to vote on the proposition of whether or not they approve of  
10 the issuance of a weather modification permit that includes  
11 authorization for hail suppression in (name of the county)  
12 [~~description---of--area~~]." Each qualified voter signing the  
13 petition shall give his full name and address and voter  
14 registration number. Within five days after receiving a petition  
15 under this section, the commissioners court shall have the county  
16 clerk of the county check the names on the petition against the  
17 voter registration lists of the county and certify to the  
18 commissioners court the number of qualified voters signing the  
19 petition as reflected by checking the county's voter registration  
20 lists. [~~If-only-a-part-of-a-county-is-included-in-the-target-area~~  
21 ~~or-operational-area, the-county-clerk-shall-also-certify-that-these~~  
22 ~~signing-the-petition-reside-in-an-election-precinct-in--the--county~~  
23 ~~totally--or--partially--included--in-the-target-area-or-operational~~  
24 ~~area-~~] On certification by the county clerk, the petition shall be  
25 filed with the official records of the county and shall be  
26 available for public inspection.

27 (d) [~~f~~] A person filing a petition with the county clerk

1 shall deposit with the county clerk an amount of money estimated by  
2 the county clerk to be sufficient to cover the costs of the  
3 election, to be held by the county clerk until the result of the  
4 election to approve or disapprove the issuance of the permit is  
5 officially announced. If the result of the election favors the  
6 party petitioning for the election, the county clerk shall return  
7 the deposit to the person filing the petition or his agent or  
8 attorney, but if the result of the election does not favor the  
9 party petitioning for the election, the county clerk shall pay the  
10 cost and expenses of the election from the deposit and return the  
11 balance of the deposit to the person filing the petition or his  
12 agent or attorney.

13 (e) [~~g~~] The ballots for an election under this section  
14 shall be printed to provide for voting for or against the  
15 proposition: "The issuance of a permit providing for weather  
16 modification including authorization for hail suppression and  
17 control in (name of county) [~~description-of-area~~]."

18 (f) [~~h~~] The order calling the election shall provide for  
19 the time and place or places for holding the election, the form of  
20 the ballots, and the presiding judge for each voting place.

21 (g) [~~i~~] The commissioners court shall publish a copy of  
22 the election order in a newspaper of general circulation in the  
23 county [~~or-in-the-part-of-the-county--within--the--target--area--or~~  
24 ~~operational--area~~] at least 30 days preceding the day of the  
25 election.

26 (h) [~~j~~] The presiding judge of each voting place shall  
27 supervise the counting of all votes cast and shall certify the

1 results to the commissioners court within five days after the  
2 election. A copy of the results are to be filed with the county  
3 clerk and become a public record.

4 (i) [(k)] Within five days after the results are filed, the  
5 commissioners court shall declare the results.

6 (j) [(l)] The commissioners court of each county holding an  
7 election shall send certified copies of the results of the election  
8 to the executive director within 24 hours after the results are  
9 declared under Subsection (i) [(j)] of this section.

10 (k) [(m)] If a majority of the qualified voters in a county  
11 voting in the election [~~precincts-any-part-of-which-are-located--in~~  
12 ~~the-target-area~~] vote against issuance of the permit, no permit may  
13 be issued covering that county. If a majority of the qualified  
14 voters in a county voting in the election [~~precincts--any--part--of~~  
15 ~~which-are-located-within-the-target-area~~] vote in favor of issuance  
16 of the permit, the commission may issue the permit including that  
17 county as provided in this subchapter[~~;--provided;--however;--if--a~~  
18 ~~majority--of-the-qualified-voters-voting-in-either-of-the-following~~  
19 ~~areas-vote-against-issuance-of-the-permit;--these--areas--shall--be~~  
20 ~~excluded-from-the-coverage-of-the-permit-~~

21 [(1)--any--election--precinct--any--part--of--which--is  
22 located-in-the-operational-area;--or

23 [(2)--any-election-precinct-located-wholly--within--the  
24 target--area--and-contiguous-with-its-outer-boundary;--if;--however;  
25 the-commission--finds--that--a--weather--modification--and--control  
26 operation--is-still-feasible;--a-permit-may-be-issued-covering-areas  
27 in-which-no-election-is-requested-or-areas-in-which-the-voters-give

1    ~~their approval as provided in this section].~~ ,

2            (1) [~~m~~]    If a permit is denied under Subsection (k) [~~m~~]  
3    of this section, no application for a permit covering the county  
4    [~~all or part of the same target area or operational area~~] so denied  
5    may be considered, and no permit under that application may be  
6    issued by the commission including that county, for a period of two  
7    years following the date of the election nor may an election be  
8    held pursuant to this chapter.

9            [~~e~~]--If--a--permit--including--authorization--for--hail  
10    suppression--is--to--cover--only--a--part--of--a--county,--only--those  
11    qualified voters residing in an election precinct or--precincts--of  
12    the--county--included--in--the--target area or operational area are  
13    eligible to sign a petition and to vote at an election--under--this  
14    section,--and--in--computing--the--vote,--only--a--majority--of--these  
15    qualified voters residing in such areas and voting in the--election  
16    shall be necessary to carry the proposition in that county.]

17           (m) [~~p~~]    No permit shall be issued which provides for or  
18    allows the seeding of clouds for hail suppression outside the  
19    county or counties [~~target area or within these counties or parts~~  
20    ~~of counties located in the operational or target areas~~] which were  
21    included in [~~excluded from~~] the coverage of the permit by virtue of  
22    an election under Subsection (k) [~~m~~] of this section. However,  
23    seeding may be done in the county or counties [~~these--counties--or~~  
24    ~~parts--of--counties--located in the operational or target area~~] which  
25    were not excluded from the coverage of the permit by virtue of an  
26    election under Subsection (k) [~~m~~] of this section[~~7--provided it~~  
27    ~~is reasonably calculated to take--effect--only--within--the--target~~

1 area]. This shall not prohibit the observation of cloud and cloud  
2 formations.

3 (n) A person who is operating under a permit that includes  
4 hail suppression may seed any clouds on the boundary of a county  
5 covered by a permit if the cloud is entering the county and if all  
6 of the cloud being seeded will pass through the county.

7 (o) [(q)] The department may monitor any program under such  
8 conditions as the department deems advisable.

9 [(r)--The-provisions-of-this-section--do--not--apply--to--any  
10 permits-in-effect-at-the-time-this-section-becomes-law-

11 [(s)--Upon---petition---as---provided---in---this---section,--the  
12 commissioners-court-of-any-county-outside-but-adjacent-to-a--county  
13 included--in-the-operational-area-of-an-existing-or-proposed-permit  
14 shall-call-and-hold-an-election-on-the-proposition--of--whether--or  
15 not--the--qualified-voters-of-the-county-approve-of-the-issuance-of  
16 any-permit-authorizing-hail-suppression--in--the--county.---If--the  
17 county--voters--voting--in-such-election-disapprove-the-issuance-of  
18 permits-authorizing-hail-suppression,--the-commission-may-not--issue  
19 any--such-permit-covering-the-county-until-the-proposition-has-been  
20 approved-by-a-subsequent-election.]

21 (p) [(t)] If any county [or--part--of---a---county] has  
22 disapproved the issuance of a permit at the previous election held  
23 under the provisions of this section, that county [or--part--of--a  
24 county] shall not be included in any permit issued by the  
25 commission until the voters of that county [or-part--of--a--county]  
26 have participated in a subsequent election at which a permit is  
27 approved. The applicant for a permit which includes that county



1   ~~[or--part--of-a-county]~~ shall have the burden of petitioning for an  
2   election and depositing costs in the manner provided by this  
3   section for the original election to approve or disapprove a  
4   permit.

5       (g) ~~[(u)]~~ The board by rule shall define the term hail  
6   suppression as used in this section, using the most current  
7   scientifically accepted technological concepts.

8       SECTION 2. The amendments made by this Act to Section  
9   18.0841, Water Code, as amended, do not apply to permits that are  
10   in effect on the effective date of this Act.

11       SECTION 3. The importance of this legislation and the  
12   crowded condition of the calendars in both houses create an  
13   emergency and an imperative public necessity that the  
14   constitutional rule requiring bills to be read on three several  
15   days in each house be suspended, and this rule is hereby suspended,  
16   and that this Act take effect and be in force from and after its  
17   passage, and it is so enacted.

Bill S. S. S.

AN ACT relating to local authorization of permits for weather modification that includes hail suppression.

**MAR 10 1981**

Filed with the Secretary of the Senate

**MAR 10 1981**

Read, referred to Committee on **NATURAL RESOURCES**

Reported favorably.

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed.

Senate and Constitutional Rules to permit consideration suspended by  
    { unanimous consent.  
      \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

Read second time and { ordered engrossed.  
                                  passed to third reading.

Caption ordered amended to conform to body of bill.

Senate and Constitutional 3-Day Rules suspended by vote of  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays to place bill on third reading and final passage.

Read third time and passed by { a viva-voce vote.  
                                  \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

OTHER ACTION:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Engrossed

\_\_\_\_\_  
Sent to HOUSE

\_\_\_\_\_  
ENGROSSING CLERK

\_\_\_\_\_  
Received from the Senate

\_\_\_\_\_  
Read first time and referred to Committee on \_\_\_\_\_

\_\_\_\_\_  
Reported favorably amended, sent to Printer at \_\_\_\_\_

\_\_\_\_\_  
Printed and Distributed \_\_\_\_\_

\_\_\_\_\_  
Sent to Committee on Calendars \_\_\_\_\_

\_\_\_\_\_  
Read Second time (amended): passed to third reading (failed)  
by (Non-Record Vote) Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays

\_\_\_\_\_  
Present, not voting.

\_\_\_\_\_  
Constitutional Rule requiring bills to be read on three several  
days suspended (failed to suspend) by a four-fifths vote of  
\_\_\_\_\_ yeas \_\_\_\_\_ nays \_\_\_\_\_ present not voting.

\_\_\_\_\_  
Read third time (amended); finally passed (failed) by a  
(Non-Record Vote) Record Vote of \_\_\_\_\_ yeas \_\_\_\_\_ nays  
\_\_\_\_\_ present not voting.

\_\_\_\_\_  
Caption ordered amended to conform to body of bill.

\_\_\_\_\_  
Returned to Senate.

\_\_\_\_\_  
Chief Clerk of the House